

Section II. Remarks

Amendment of the Specification

The specification has been amended in paragraph [0026] to correct typographical and grammatical errors, including the reference numeral of the bulk canister.

Amendment of the Claims

Claims 1, 4-14, 16, 18-19, 24 and 25 have been amended herein to better specify the invention as claimed. No new matter (35 USC §132) has been added.

Claims 1-26 are now in form for further examination and allowance, in light of the ensuing remarks.

Rejection of Claims on Reference Grounds, and Traversal Thereof

In the June 2, 2004 Office Action, claims 1-26 were rejected on reference grounds, including:

- a rejection of claims 1, 2, 4-7, 9 and 11-17 under 35 U.S.C. §102(b) as anticipated by Jourdan;
- a rejection of claims 1, 2, 4-7, 9 and 12 under 35 U.S.C. §102(b) as anticipated by Nakayama;
- a rejection of claims 1, 2, 4, 14, 15, 18-21 and 23-26 under 35 U.S.C. §102(a) and (e) as anticipated by Birtcher;
- a rejection of claims 1, 2, 4, 14, 15 and 17-26 under 35 U.S.C. §102(a) and (e) as anticipated by Gregg;

- a rejection of claims 3, 8 and 10 under 35 U.S.C. §103(a) as being unpatentable over Jourdan; and
- a rejection of claims 3, 8 and 10 under 35 U.S.C. §103(a) as being unpatentable over Nakayama.

These rejections are traversed, in application to claims 1-26 as now amended and pending in the application.

Remarks concerning the patentability of amended claims 1-26 are set out in the ensuing discussion.

Patentable Distinction of Claims 1-26

Claim 1, from which claims 2-13 depend, has been amended herein to recite the canister guard as comprising:

“an elongate housing enclosing an interior volume therewithin, said housing including a circumscribing sidewall, a closed bottom portion and a flow passage at an upper portion of the housing for egress of gas from the interior volume of the housing;

circumferentially spaced-apart openings around a lower portion of the circumscribing sidewall, for flow of gas from outside of the housing into the interior volume thereof; and

longitudinally spaced-apart flow-through baffles in the interior volume of the housing, each flow-through baffle being joined to a respective inlet opening in the circumscribing sidewall and extending from said inlet opening into the interior volume of the housing, with a discharge opening at an interior portion of the flow-through baffle, and an interior passage joining the inlet opening and the discharge opening, for flow of gas from outside of the housing through inlet openings, interior passages and discharge openings of the flow-through baffles into the interior volume of the housing,

whereby when pressure is applied through an inlet of the canister, gas flows into the interior volume of the housing through (i) the circumferentially spaced-apart openings around the lower portion of the circumscribing sidewall and (ii) the longitudinally spaced-apart flow-through baffles, so that gas egresses from the housing through said flow passage at the upper portion of the housing and liquid escape from the canister is restrained during such gas egress."

No such structure is disclosed in or suggested by the cited references, whether taken singly or in any combination.

Jourdan fails to teach:

"an elongate housing ... including a circumscribing sidewall, a closed bottom portion and a flow passage at an upper portion of the housing for egress of gas from the interior volume of the housing," or

"circumferentially spaced-apart openings around a lower portion of the circumscribing sidewall, for flow of gas from outside of the housing into the interior volume thereof,"

instead describing a filter cartridge that has side-to-side ingress/egress flow (see FIGS. 3 and 4 of such reference), with four of the six faces of such parallelepiped filter being imperforate and devoid of any gas flow passages.

Further, for anticipation to exist, a reference "must teach every aspect of the claimed invention either explicitly or implicitly. Any feature not directly taught must be inherently present." (MPEP §706.02, Rejection on Prior Art [R-1]). The prior art is anticipatory only if every element of the claimed invention is disclosed in a single item of prior art in the form literally defined in the claim (*Jamesbury Corp. v. Litton Indus. Products*, 756 F.2d 1556, 225 USPQ 253 (Fed. Cir. 1985); *Atlas Powder Co. v. Du Pont*, 750 F.2d 1569, 224 USPQ 409 (Fed. Cir. 1984); and *American Hospital Supply v. Travenol Labs*, 745 F.2d 1 223, USPQ 577 (Fed. Cir. 1984)).

Considered against these criteria, Jourdan is seen to lack disclosure of applicant's invention as recited in amended claim 1. It is noted that all other claims 2, 3-9 and 10-17 rejected on Jourdan depend from claim 1, or otherwise incorporate the subject matter of claim 1 therein (e.g., claim 14 having been amended to recite, inter alia, "a canister guard as claimed in claim 1), and are likewise distinguished over Jourdan.

Further, Jourdan fails to teach any "canister guard for coupling to a canister at an outlet thereof and for preventing liquid chemical in the canister from exiting through the outlet when pressure is applied through a canister inlet of the canister," as required by applicants' claim 1. Jourdan instead is directed to an internal combustion engine exhaust system – an automotive vehicular muffler – that provides no motivation to the skilled artisan for designing or accessorizing a liquid chemical canister.

On such basis, it is requested that the rejection of claims 1, 2, 4-7, 9 and 11-17 under 35 U.S.C. §102(b) as anticipated by Jourdan, and the rejection of claims claims 3, 8 and 10 under 35 U.S.C. §103(a) as being unpatentable over Jourdan, now be withdrawn.

Nakayama has been applied as a §102(b) reference against claims 1, 2, 4-7, 9 and 12 and as a §103(a) reference against claims 3, 8 and 10.

Nakayama's disclosed apparatus, however, is a liquid-liquid contactor and not in any way a canister guard. The "baffles" 1 in such liquid-liquid contactor are in fact liquid-liquid contacting trays, and do not in any way equate to or suggest:

"longitudinally spaced-apart flow-through baffles in the interior volume of the housing, each flow-through baffle being joined to a respective inlet opening in the circumscribing sidewall and extending from said inlet opening into the interior volume of the housing, with a

discharge opening at an interior portion of the flow-through baffle, and an interior passage joining the inlet opening and the discharge opening, for flow of gas from outside of the housing through inlet openings, interior passages and discharge openings of the flow-through baffles into the interior volume of the housing,"

as required in claim 1, and therefore likewise required in claims 2-10 and 12 dependent thereunder.

Accordingly, it is requested that the respective §§102/103 rejections of claims 1-10 and 12 based on Nakayama be withdrawn.

Birtcher has been cited as a §102(a),(e) reference against claims 1, 2, 4, 14, 15, 18-21 and 23-26, for description of a canister 10, baffle 84 and reactor 28.

This characterization of Birtcher, however, is incorrect. There is no "reactor 28." Reference number 28 in Birtcher denotes a "process vessel," which in fact is a bubbler for delivery of chemical to a "process tool destination 48" (column 5, line 6 of Birtcher), e.g., a deposition reactor.

Even ignoring this characterization of Birtcher, the fact remains that Birtcher's "baffle 84" does not in any way equate to or suggest:

"longitudinally spaced-apart flow-through baffles in the interior volume of the housing, each flow-through baffle being joined to a respective inlet opening in the circumscribing sidewall and extending from said inlet opening into the interior volume of the housing, with a discharge opening at an interior portion of the flow-through baffle, and an interior passage joining the inlet opening and the discharge opening, for flow of gas from outside of the housing through inlet openings, interior passages and discharge openings of the flow-through baffles into the interior volume of the housing,"

as required in claim 1, and correspondingly required in claims 2 and 4 dependent thereunder.

The same patentable distinction is applicable to:

- claim 14 (reciting “a canister guard as claimed in claim 1”);
- claim 15 dependent from claim 14;
- claim 18 (reciting “a canister guard as claimed in claim 1”);
- claims 19-21 and 23 dependent under claim 18;
- claim 24 (reciting “a canister guard as claimed in claim 1”); and
- claims 25 and 26, each of which depends from claim 24.

It therefore is respectfully requested that the §102(a) and (e) rejection of claims 1, 2, 4, 14, 15, 18-21 and 23-26 based on Birtcher be withdrawn.

Gregg has been cited in §102(a) and (e) rejections of claims 1, 2, 4, 14, 15 and 17-26, as showing a “canister 300 having canister guard 203, sidewall inlets 205, and sensor 110” (page 3, June 2, 2004 Office Action).

Although Gregg does disclose these general structural features *per se*, Gregg is totally devoid of any teaching of:

“longitudinally spaced-apart flow-through baffles in the interior volume of the housing, each flow-through baffle being joined to a respective inlet opening in the circumscribing sidewall and extending from said inlet opening into the interior volume of the housing, with a discharge opening at an interior portion of the flow-through baffle, and an interior passage joining the inlet opening and the discharge opening, for flow of gas from outside of the housing through inlet openings, interior passages and discharge openings of the flow-through baffles into the interior volume of the housing,”

as required in claim 1, and correspondingly required in claims 2 and 4 dependent thereunder.

The same patentable distinction is applicable to:

- claim 14 (reciting "a canister guard as claimed in claim 1");
- claims 15 and 17, dependent from claim 14;
- claim 18 (reciting "a canister guard as claimed in claim 1");
- claims 19-23 dependent under claim 18;
- claim 24 (reciting "a canister guard as claimed in claim 1"); and
- claims 25 and 26, each of which depends from claim 24.

It therefore is respectfully requested that the §102(a) and (e) rejection of claims 1, 2, 4, 14, 15 and 17-26 based on Gregg be withdrawn.

Request for Extension of Time Under 37 CFR §1.136

Petition hereby is made under the provisions of 37 CFR §1.136 for a one-month extension of time for response to the June 2, 2004 Office Action, to extend the deadline for response to October 4, 2004.

The fee for such one-month extension of time, in the amount of \$110, as specified in 37 CFR 1.17, is enclosed in the accompanying Credit Card Authorization Form submitted herewith.

Authorization also is given to charge any additional fee or amount that may be properly payable in connection with the filing and entry of this Amendment, to Deposit Account No. 08-3284 of Intellectual Property/Technology Law.

CONCLUSION

The pending claims 1-26 of the application are now in form and condition for allowance. If any issues remain outstanding, the examiner is requested to contact the undersigned attorney at (919) 419-9350 to discuss their resolution, in order that this application may be passed to issue at an early date.

Respectfully submitted,



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